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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/821,839 | 03/29/2001 | Hong Ma | PSU-0020 | 3569 |

7590 05/29/2002
Janet E. Reed
WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

EXAMINER

COLLINS, CYNTHIA E

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1638

DATE MAILED: 05/29/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,839

Applicant(s)

MA, HONG

Examiner

Cynthia Collins

Art Unit

1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9, 12-14 and 17-18, drawn to an isolated nucleic acid molecule, a cDNA molecule, an oligonucleotide, a vector, and a transformed plant cell, classified in class 536, subclass 24.3, for example.
- II. Claims 10 and 15, drawn to a polypeptide, classified in class 530, subclass 370, for example.
- III. Claim 11 and 16, drawn to an antibody, classified in class 530, subclass 387.1, for example.
- IV. Claim 19, drawn to a plant comprising a mutation in an SDS gene, classified in class 800, subclass 298, for example.
- V. Claim 20, drawn to a plant gene promoter, classified in class 536, subclass 24.1, for example.
- VI. Claim 21, drawn to an isolated nucleic acid comprising an SDS promoter, classified in class 536, subclass 24.1, for example.
- VII. Claims 22-23, drawn to an isolated nucleic acid comprising a genomic SDS sequence, classified in class 536, subclass 23.6, for example.
- VIII. Claim 24, drawn to a plant cell comprising a mutation in an SDS gene, classified in class 435, subclass 419, for example.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-VIII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions or different effects

The nucleic acid molecules of Groups I, V, VI and VII, the polypeptides of Group II, and the antibodies of Group III are structurally and functionally distinct from each other, and can be used in different methods, such as hybridization methods for the nucleic acid molecules, immunization methods for the polypeptides, and immunoassay methods for the antibodies. The nucleic acid molecules of Groups I, V, VI and VII are structurally and functionally distinct from each other because Group I is drawn to a gene located on *Arabidopsis thaliana* chromosome 1 comprising an open reading frame as set forth in SEQ ID NO:1 which encodes an amino acid sequence of SEQ ID NO:2, Group V is drawn to a plant gene promoter that confers meiosis-specific expression on a cDNA sequence, Group VI is drawn to an SDS promoter as set forth in SEQ ID NO:3, and Group VII is drawn to a genomic SDS sequence set forth in SEQ ID NO:4. When such structural identity is required, such as for hybridization or expression, the different sequences have different effects. Furthermore, the plant of Group IV is structurally and functionally distinct from the plant cell of Group VIII, because the plant of Group IV comprises a mutation in an SDS gene that confers an inability to maintain homologue attachment during meiosis, whereas the plant cell of Group VIII comprises a mutation in an SDS gene that confers onto the cell at least one of the phenotypes of sterility and inability to produce pollen. The plant cells of Group I are also structurally and functionally distinct from the plant of Group IV and the

plant cell of Group VIII, because the plant cells of Group I have been transformed with the isolated nucleic acids of Group I.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Remarks

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (703) 605-1210. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

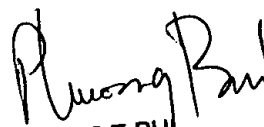
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on (703) 306-3218. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Application/Control Number: 09/821,839
Art Unit: 1638

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

CC
May 22, 2002


PHUONG T. BU
PRIMARY EXAMINER